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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,520	01/13/2006	Keizo Sugasawa	03327.2338	3500
22852	7590	05/16/2007		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER BARKER, MICHAEL P	
			ART UNIT	PAPER NUMBER
			1626	
			MAIL DATE	DELIVERY MODE
			05/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/564,520

Applicant(s)

SUGASAWA ET AL.

Examiner

Michael P. Barker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 1/13/06- New Application.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 1 and 3-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/19/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

**Claims 1-15** are pending in this Application. **Claims 1-5** and **7-10** are rejected, and **Claims 1** and **3-15** are objected to.

#### *Information Disclosure Statement*

The information disclosure statement (IDS) submitted on April 19, 2006 was correctly filed. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the IDS was considered by the Examiner. Please refer to Applicant's copy of PTO-1449, submitted herewith.

#### *Claim Rejections - 35 USC § 102(b)*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 4, and 5** are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,380,736, issued January 10, 1995. The '736 patent discloses a species at col. 30, Table 8, Example No. 34, which anticipates Applicant's Markush language of Claim 1, wherein:

- A is a lower alkylene (methylene in this case);
- R<sup>1</sup> is represented by formula (II), R<sup>11</sup> and R<sup>12</sup> are lower alkyl;
- R<sup>2</sup> is phenyl; and
- R<sup>3</sup> is an aromatic heterocycle (indolyl in this case).

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Please note **Claim 3** is not included in this rejection, because it includes the limitation, “wherein R<sup>2</sup> is thienyl or phenyl, each of which is substituted. . .”. The ‘736 patent does not meet the limitation in which R<sup>2</sup> is phenyl and substituted. **Claim 6** and its dependent claims are also not rejected here. **Claim 6** includes a proviso in the definition of R<sup>6</sup> which overcomes the prior art, or carves around the prior art.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 2-5** recite the limitation, “The pharmaceutical composition”. There is insufficient antecedent basis for this limitation in the claims, since **Claim 1** is drawn to “A platelet increasing agent”. Thus, to overcome this rejection, Applicant may consider rephrasing the preamble of **Claim 1** to recite, “A pharmaceutical composition comprising. . .”

Likewise, **Claims 7-10** recite the limitation, “The compound. . .” There is insufficient antecedent basis for this limitation in the claims, since **Claim 6** is drawn to “A 2-acylaminothiazole derivative”. Thus, to overcome this rejection, Applicant may consider rephrasing the preamble of **Claim 6** to recite, “A compound”.

### ***Objections***

**Claims 1** and **6** are objected to for containing multiple periods within each claim. Claims are required to be in the form of one sentence only. **Claims 1** and **6** each contain more than one sentence and more than one period.

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**Claims 3 and 6-15** are objected to for being based (or ultimately based) upon a rejected base claim.

**Claims 4, 5, and 12** are objected to under 37 CFR 1.75(c) as being in improper multiple dependent form because of the language, "according to any of claims x to y. . ." . See MPEP § 608.01(n). One suggestion to overcome this objection is to rewrite the disputed language as, "according to any one of claims x to y. . .".

#### *Allowable Subject Matter*

Aside from the outstanding rejections and objections, **Claims 3 and 6-15** are drawn to allowable subject matter, and there are no prior art rejections to be made on these claims.

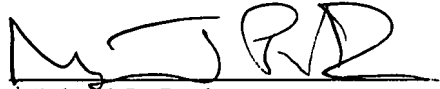
#### *Telephone Inquiry*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Barker whose telephone number is (571) 272-4341. The examiner can normally be reached on Monday-Friday 8:00 AM- 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699. The unofficial fax phone for this group are (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is viable through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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